

### REMARKS

Claims 1-42, 44 and 46-67 are currently pending in the subject application and are presently under consideration. Claims 1, 15, 24, 30, 32, 46, and 59 have been amended as shown on pp. 2-13 of the Reply. Claim 4 has been cancelled.

Applicant's representative thanks Examiner Huynh for his consideration of the proposed amendments to the subject claims as conveyed telephonically on August 19, 2007. The Examiner was contacted and apprised of the claim amendments and arguments to overcome the rejections under 35 U.S.C §103(a). In particular, applicant's representative presented the shortcomings of the cited art references with respect to exchangeability of tokens between user computers, the transmission of tokens via e-mail attachment, and the use of tokens to selectively combine program segments.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

#### **I. Rejection of Claims 1-11, 15-21, 24, 25, 27-36, 38, 42, 44, 46-67 Under 35 U.S.C. §103(a)**

Claims 1-11, 15-21, 24, 25, 27-36, 38, 42, 44, 46-67 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ellis *et al.* (US 2005/0028208), in view of Abecassis (6,038,367). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Neither Ellis *et al.* nor Abecassis, alone or in combination, teach or suggest each and every aspect of the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §706.02(j).** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The present invention relates to a system for providing program criteria representing audio/visual programming to facilitate recording specific audio/visual programs. A data file called a token contains information that identifies a specific program. Tokens are stored in a token database located on a server and can be transmitted to a remote user computer by the server. The selection of a token to be delivered to a user is based on selection criteria provided by the user. Upon receipt of a token, the user can in turn send the received token to a recording device to facilitate recording the associated program. Tokens are freely exchangeable between users *via* electronic means such as e-mail. A user who receives a token either from the server or from another user can send the token to his or her own recording system to effect recording the associated television program. In this way, a token representing an audio/visual program can be sent to multiple recording devices to facilitate recording of the associated program on a plurality of recording devices. To this end, amended independent claims 15, 24, and 32 recite similar limitations, namely,

*receiving selection criteria from a second computer, the selection criteria represents a desired recording of a first user;*

*sending a copy of the received token from the second computer to a third computer, the third computer is employed by a second user;*

*utilizing the token residing on the second computer to program a recording device associated with the second computer to record the audio/visual program represented by the token; and*

*utilizing the copy of the token residing on the second computer to program a recording device associated with the second computer to record the same audio/visual program.*

Ellis *et al.* fails to teach this aspect of the subject claims. Ellis *et al.* relates to an interactive television program guide system that affords remote access to the program guide features. A remote program guide access device allows a user to remotely connect to interactive program guide equipment and thereby access the functions of the program guide equipment from a remote location. However, although the system taught by Ellis *et al.* allows an owner of a recording device to effect recording of a program on that device from a remote computer, the cited art nowhere teaches that program information of any kind can be sent *from a first user's*

computer to a second user's computer to facilitate recording the associated program on the second user's recording device. As explained above, and in contrast to the cited art, the subject claims provide a system and method by which a data file (*i.e.* a token) representing a specific program can be transmitted *between users* so that a first user who receives the token from second user can effect recording of the associated program on the first user's recording device. Conversely, the program guide data disclosed in the cited art is exchanged exclusively between a user's remote program guide access device and that user's program guide equipment, and as such cannot be employed by users other than the owner of the remote access device.

Abecassis likewise fails to teach or suggest this feature of the subject claims. Abecassis relates to content-on-demand video system that delivers a customized version of a video to a viewer based on the viewer's video content preferences. A video comprising multiple segments is created such that multiple versions of one or more segments are available. The version of a given segment that is delivered to a viewer during playback of the video is determined by the viewer's preferences regarding explicitness of content. Abecassis does not relate to the *recording* of programs, but rather the pointcast delivery of audio/visual content on demand. Abecassis is therefore silent regarding the delivery of tokens for use in facilitating the recording of programs.

Moreover, to underscore the exchangeable nature of the tokens taught by the subject claims, amended independent claim 1 (and similarly independent claims 30 and 46) recites, *token containing an XML formatted block of data identifying a disparate one of at least two segments of a predetermined one of an audio and visual program...the server is programmed to provide at least one token to a remote computer as an e-mail attachment.* Although Ellis *et al.* discloses that a remote access device and program guide equipment can exchange program guide data *via* SMTP by encapsulating the data into e-mail messages, the cited art does not teach that this data is exchanged as an *e-mail attachment*. By definition, an e-mail attachment is a file that can be detached from and used independently of the delivering e-mail message. Since Ellis *et al.* teaches that the program guide data is exchanged exclusively between the remote access device and the program guide equipment, there is no suggestion or motivation in cited art to deliver this program guide data in the form of an e-mail attachment that can be copied to another computer. By contrast, the tokens taught by the present invention are intended to be transferable between users, as explained above, and therefore can be delivered to a user as an e-mail attachment.

Abecassis fails to make up this deficiency in Ellis *et al.*, since Abecassis is silent regarding the exchange of program data *via* e-mail. Furthermore, the claim recites that the data is formatted in XML. Ellis *et al.* and Abecassis are silent regarding XML formatted tokens.

Finally, amended independent claim 1 (and similarly independent claims 30, 40, 42, 44, 51, and 59) further recites, *the remote computer utilizes at least two tokens to selectively combine at least two program segments based at least in part upon viewing characteristics of one or more users at the remote computer.* As conceded in the Office Action, Ellis *et al.* fails to disclose this aspect of the subject claims. Abecassis fails to remedy this shortcoming in Ellis *et al.* Rather, the content-on-demand video system taught by Abecassis combines video segments based on the viewer's choice of video plus a reading of the viewer's video content preferences. This in no way suggests a system in which two or more program segments are *each represented by a disparate token*, as taught by the subject claims.

In view of at least the foregoing, it is respectfully submitted that Ellis *et al.* and Abecassis, alone or in combination, fail to teach or suggest each and every aspect of applicant's invention as recited in independent claims 1, 15, 24, 30, 32, 40, 42, 44, 46, 51, and 59 (and respective dependent claims), and therefore fail to make obvious the subject claimed invention. It is therefore requested that this rejection be withdrawn.

## **II. Rejection of Claims 12-14, 22, 23, 26 and 37 Under 35 U.S.C. §103(a)**

Claims 12-14, 22, 23, 26 and 37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ellis *et al.* (US 2005/0028208), in view of Abecassis (6,038,367) as applied to 11, 15, 26 or 36 above, further in view of Knudson *et al.* (6,536,041). Claims 12-14, 22-23, 26 and 37 depend from independent claims 1, 15, 24 and 32 respectively. As discussed *supra*, neither Ellis *et al.* nor Abecassis teach or suggest each and every feature disclosed in these independent claims. Knudson *et al.* fails to remedy the deficiencies of those art references. Knudson *et al.* relates to a system that facilitates the display of real-time data (sports scores, news, etc.) on an interactive television program guide. The cited art also provides for the display of a controllable ticker on the user's television display. The ticker displays real-time data accordant to a category selected by the viewer. However, although Knudson *et al.* discloses that a viewer can initiate recording of a television program *via* the controllable ticker, the cited art

nowhere teaches that recording is effected through the use of tokens, much less that such tokens can be sent to other users to facilitate recording of programs on *another user's* recording device.

Moreover, Knudson *et al.* does not address itself to the issue of video *segments*, and therefore fails to remedy the deficiencies of Ellis *et al.* and Abecassis with regard to *the use of at least two tokens to selectively combine at least two program segments*.

In view of at least the foregoing, it is respectfully submitted that Knudson *et al.* fails to make up the shortcomings of Ellis *et al.* and Abecassis with respect to the independent claims. It is therefore requested that this rejection be withdrawn with respect to claims 12-14, 22, 23, 26 and 37, which depend from those independent claims.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP131US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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